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11 Attorneys for Plaintiffs

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 CANA FOUNDATION, a non-profit
15 corporation, LAURA LEIGH, individually, and
WILD HORSE EDUCATION, a nonprofit
16 corporation,

17 *Plaintiffs,*

18 v.

19 UNITED STATES DEPARTMENT OF
20 INTERIOR, BUREAU OF LAND
MANAGEMENT, and JON RABY, Nevada
21 State Director of the Bureau of Land
22 Management,

23 *Defendants.*

CASE NO. 2:22-cv-01200-CDS-BNW

**DECLARATION OF LAURA LEIGH
INDIVIDUALLY AND ON BEHALF
OF WILD HORSE EDUCATION IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

Amended Complaint Filed:
September 2, 2022

1 I, Laura Leigh, declare as follows:

2 1. The facts contained in this declaration are known personally to me and, if called as a
3 witness, I could and would testify competently thereto under oath.

4 2. I am a resident of the state of Nevada.

5 3. I am the current President and founder of the non-profit organization Wild Horse
6 Education (WHE), which has its principal place of business at 216 Lemmon Drive, # 316, Reno, N.V.,
7 89506. In addition, I am also an active member and supporter of WHE.

8 4. WHE is a national nonprofit corporation dedicated to research, journalism, and public
9 education concerning the activities and operations of federal and state management of the free roaming
10 horse and wild burro populations.

11 5. The mission of WHE is to protect and preserve wild horses and burros on range, during
12 and after capture. WHE works to do so in multiple ways. First, WHE provides information and
13 education to the public about the current situation with American wild horses and burros and the issues
14 surrounding public land management and wild horses. In this, WHE aims to remove the curtain that
15 veils governmental activities against wild horses from the public eye to advance wild horse advocacy
16 and support. Second, WHE also aims to facilitate public awareness and participation in wild horse
17 issues, such as in comments on proposed agency actions. Third, WHE also advocates for the creation of
18 a sane, scientifically based management strategy for these animals in the wild. Fourth, WHE promotes
19 public adoptions of formerly wild horses and supports those who adopt them for rescue and sanctuary.

20 6. WHE frequently submits comments on Herd Management Area Plans, Environmental
21 Assessments, and other wild horse management documents and hearings made available for public
22 comment.

23 7. WHE has more than 300,000 members and followers, with the majority of that
24 number being individuals across the United States, and educates and informs these members and the
25 American public about wild horses and burros through articles, photographs, videos, and sharing
26 data and other information. WHE's members and supporters regularly attend and observe wild
27 horse and burro roundups, removals, and holding pens.

28 8. WHE has previously held outreach sessions in the Blue Wing Complex. Advocating
for the wild horses and burros in the Blue Wing Complex is a past, present, and future important

1 issue for myself, for WHE, and for our members.

2 9. It is WHE's standard practice to send trained members of WHE to observe wild
3 horse and burro gathers conducted by the Bureau of Land Management (BLM) throughout the
4 United States. When observing gather operations, our members document the events by filming the
5 operations on video, capturing photographs, and writing written reports from the area designated by
6 BLM for public observers.

7 10. It is also WHE's standard practice to make documentation of the wild horse and
8 burro gathers and range data available to the public and to use this documentation to show and
9 support any concerns we have directly to the BLM.

10 11. From their years of visiting, viewing, observing, and documenting wild horses and
11 burros, including those in the Blue Wing Complex, many of WHE's members form strong bonds
12 with the wild horses and burros. Because of this, it is often very emotional for them to observe the
13 wild horses and burros being gathered and captured from their homes on the range at these gather
14 operations. Both I and WHE's members experience great sadness when we observe horses and
15 burros we have visited, observed, enjoyed, and known in the past, be rounded up and lose their
16 freedom. It is also very difficult for I and our members to witness gathers in which the horses and
17 burros appear to be injured or in distress, or in which horses are euthanized during the gather
18 operation. This is especially true when our members know the individual horse or horses in question
19 from time spent visiting, viewing, and enjoying them in their wild.

20 12. I have devoted my energy to the pursuit of gaining protections for our wild horses
21 and burros over all other interests.

22 13. For example, I lived out of my vehicle for six years and literally called the open
23 range my home. I often slept on the range with the wild horses and burros, including those in the
24 Blue Wing Complex.

25 14. I am a freelance photojournalist, whose work has appeared internationally in media
26 broadcast outlets, such as CNN, BBC/ITV, ABC, Common Dreams, and CounterPunch. Over the
27 past decade, I have visited, observed, enjoyed, and photographed the wild horses and burros at the
28 Blue Wing Complex and have formed unique and special relationships with individual animals that
I have named and monitored throughout the years. I experience great joy from watching young foals

1 born in the Complex become curious and strong adults who then create their own families. I intend
2 to continue to visit, observe, enjoy, and photograph the wild horses and burros of the Blue Wing
3 Complex in the future.

4 15. I have grave concerns that past, present, and future BLM actions with regards to the
5 Blue Wing Complex horses and burros will adversely affect my ability to recreate and enjoy, such
6 as through visiting, observing, and photographing these herds in the future.

7 16. I am aware that the BLM failed to create a Herd Management Area Plan (HMAP) for
8 the Blue Wing Complex, as required by law.

9 17. Had an HMAP been created for the Blue Wing Complex, I would have submitted
10 comments during the appropriate scoping period.

11 18. In 2017, on behalf of both myself and WHE, I submitted comments on the
12 preliminary Blue Wing Complex Gather Plan Environmental Assessment (the Gather EA). In
13 response to my comments and comments of other members of the public, BLM has failed to address
14 reasonable action alternatives, explain how the AMLs created before 1999 were arrived at, explain
15 why it did not abide by the law and the standards in the Winnemucca District land use plan to create
16 an HMAP for the Complex, describe differences between horses and burros in gather operations,
17 explore livestock grazing options, address herd-specific foaling seasons, and more.

18 19. BLM replied to many of the public comments by stating they were outside the scope
19 of the NEPA review.

20 20. Had BLM prepared an HMAP for the Blue Wing Complex, I and WHE would have
21 been able to raise many of the concerns that BLM refused to address in its NEPA review.

22 21. Had the BLM prepared an HMAP for the Blue Wing Complex, I and WHE would
23 have gained information available through said HMAP and been able to use said information to
24 further our advocacy mission; namely, to spread information and awareness to the public regarding
25 wild horse and public lands issues.

26 22. Without an HMAP, a lack of information is available to address the Blue Wing
27 Complex, and this has caused WHE to divert our resources and expend resources we otherwise
28 would not have had to expend, to attempt to gather information ourselves.

23. Based on my extensive experience with BLM and wild horse and burro roundups, it

1 is my understanding that when BLM constructs temporary holding facilities on private land, BLM
2 contracts with the property owner. Most gather operations contract with private parties for
3 temporary holding facilities, but we, the public, are still granted daily tours to view the gathered
4 wild horses and burros. This access is vital to our ability to assess the conditions and identities of
5 the animals gathered.

6 24. It is also my experience that wild horses and burros are less startled by a few
7 individuals with cameras at any distance (near or far), than by large BLM trucks and trailers, as well
8 as the children and dogs I have seen onsite at trap and holding. BLM and contractor employees are
9 often documented using cell phones and cameras to record the events while couched in trap wings
10 and during release.

11 25. In the past, BLM has allowed certain media representatives to sit at trap and even
12 place a camera at the trap. Melissa Farlow for National Geographic is one such photographer and
13 media representative.

14 26. I have repeatedly fought to ensure that the public has access to all phases of BLM
15 gather operations. In 2011, I filed a First Amendment claim that resulted in a Ninth Circuit court
16 opinion that affirmed the right of access, affirmed repetitive conduct, but remanded to the district
17 court to further debate the specific issues at hand. We appealed the second district court opinion and
18 were ordered into mediation by the Ninth Circuit. The Internal Memorandum of 2013 is part of the
19 settlement I helped craft during mediation. The intention was to utilize a “fire” type protocol that
20 allowed press/media into areas that were considered dangerous, but with narrowly tailored
21 limitations in extreme events.

22 27. Initially, access improved; the agency even agreed to open closed facilities if used as
23 intake from the range.

24 28. In 2016, we began to have issues. BLM responded to requests for access as if the
25 settlement only covered one year. I repeatedly have had to remind the agency that the First
26 Amendment has no expiration date, and I have writing multiple public articles on the subject.

27 29. BLM has accelerated removals of wild horses and burros to historically high levels. I
28 am unable to attend all roundups myself as the responsibilities of running an internationally
recognized organization have increased.

1 30. I train observers for WHE's "CAWP team," a team trained in policy and assessment.
2 Laurie Ford underwent online and in-person training. She has previous observation experience, has
3 extensive burro knowledge, and requested an assignment with the Blue Wing Complex.

4 31. Roundups in the district that manages Blue Wing include several areas where access
5 issues to document capture, handling at temporary and the decision to ship to off-limits corrals is
6 commonplace.

7 32. It is our standard operating procedure to request access to temporary holding
8 facilities, request an alternative observation spot if available, and, if denied, to document the denial
9 and pass it on to the team leader.

10 33. In 2022, I sent Laurie Ford to the Blue Wing Complex to observe and document
11 BLM's gather, holding, and shipment operations. I served as the team leader.

12 34. These operations were particularly important and crucial to Wild Horse Education's
13 mission and purpose because the Blue Wing Complex is one of the very few HMAs that has a
14 population of wild burros in Nevada. WHE seeks to educate the public on BLM's handling of wild
15 burros, rather than solely wild horses, and the Blue Wing Complex is one of the few places where
16 they have that opportunity due to the low number of HMAs that contain a burro population in the
United States.

17 35. Laurie Ford, as with all observers or CAWP team members, immediately checked in
18 with me from the Blue Wing Complex, sending me video files and daily log sheets to review.

19 36. Each night we do a briefing and review important video footage. I personally review
20 every second of every video file.

21 37. Laurie Ford provided me footage of gather operations at the Porter Springs location
22 in the Blue Wing Complex. I know this location well and know that this trap could be used to
23 capture most of the targeted burros. I also observe access issues that were serious and needed timely
24 resolution.

25 38. In addition, BLM granted the public access to the Axtell Off Range Corrals to view
26 gathered horses, but access was denied at this site to view burros. I am aware that these Corrals are
27 privately owned, and BLM has contracted with the owners since 2015. Historically, WHE and the
28 public have been given access to this facility on select visitation days.

1 39. After being denied access to observe gathers and access to view burros at the Axtell
2 Off Range Corrals, I contacted Garret Swisher with BLM immediately to see if the issues involving
3 access could be resolved as the location Laurie Ford was placed did not allow her to clearly
4 document the gather operations at any time of the day. I received the standard reply that no changes
5 would be made, with Garret asserting that they were complying with all policy and law.

6 40. As regards the denial of access to burros at the Axtell Off Range Corrals, BLM has
7 indicated that this is because its contract with the Axtell Off Range Corrals inexplicably only allows
8 for select public viewing days of wild horses, and not of wild burros.

9 41. On August 7, I reached out to BLM again to request access to burros at the Axtell
10 Off Range Corrals, but BLM never responded. I notified BLM that assess was a time-sensitive
11 matter as we needed to assess the conditions of the burros after their capture.

12 42. It is our primary purpose in attending operations to report to the public and engage
13 processes to improve the humane handling policy. This goal has been central to our organization
14 since inception. When we have no access to clearly document a single aspect of capture or handling,
15 we are prohibited from our professional obligations.

16 43. BLM's gather operations in the Blue Wing Complex threaten my ability, as well as
17 the ability of other WHE members, to recreate and aesthetically enjoy the wild horses and burros
18 located there. Advocating for the wild horses and burros in the Blue Wing Complex is a past,
19 present, and future important issue for me, for WHE, and for WHE's members.

20 44. The Blue Wing Complex Gather EA and its implementation have caused the WHE to
21 divert an inordinate amount of resources in staff time and attention to the Blue Wing Complex.

22 45. BLM reported as of December 8, 2023 that it plans to do another gather at the Blue
23 Wing Complex from July 8, 2024 to August 18, 2024. During this gather, BLM plans on gathering
24 and removing an additional 1,373 horses and 356 burros. *See* chrome-
25 extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.blm.gov/sites/default/files/docs/2023-
26 12/Tentative%20National%202024%20%20Gather%20Sched.%20Revised%20Dec%208%202023.
27 pdf.
28

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the
2 United States of America that the foregoing is true and correct.

3 DATED this 15th day of December 2023.

4 /s/ Laura Leigh

5 Laura Leigh

6 President, Wild Horse Education
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